

IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE DISTRICT OF SOUTH CAROLINA  
ROCK HILL DIVISION

Christopher Lane,	)	Case No. 0:23-cv-01284-JDA
	)	
Plaintiff,	)	
	)	
v.	)	<b><u>OPINION AND ORDER</u></b>
	)	
John Palmer, <i>Warden</i> ; (Unknown)	)	
Tierry,* <i>Major</i> ; (Unknown) Moss,	)	
<i>Captain</i> ; Jane Doe, <i>Sergeant</i> ,	)	
	)	
Defendants.	)	

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This matter is before the Court on a motion for summary judgment filed by Defendants Palmer, Terry, and Moss (the “Moving Defendants”) [Doc. 71], and a Report and Recommendation (“Report”) of the Magistrate Judge [Doc. 93]. In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2) (D.S.C.), this matter was referred to United States Magistrate Judge Paige J. Gossett for pre-trial proceedings.

On July 19, 2024, the Magistrate Judge issued the Report, recommending that the Moving Defendants’ motion for summary judgment be denied and that Defendant Jane Doe be dismissed without prejudice for failure to serve pursuant to Rule 4(m) of the Federal Rules of Civil Procedure. [Doc. 93.] The Magistrate Judge advised the parties of the procedures and requirements for filing objections to the Report and the serious consequences if they failed to do so. [*Id.* at 11.] No party has filed objections, and the time to do so has lapsed.

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\* The record reflects that this Defendant’s last name is spelled “Terry.” [Doc. 71-6.] Accordingly, the Court will refer to this Defendant throughout this Opinion and Order using the correct spelling of his last name.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with this Court. *Mathews v. Weber*, 423 U.S. 261, 270–71 (1976). The Court is charged with making a de novo determination of only those portions of the Report that have been specifically objected to, and the Court may accept, reject, or modify the Report, in whole or in part. 28 U.S.C. § 636(b)(1). The Court will review the Report only for clear error in the absence of an objection. See *Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “in the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation” (internal quotation marks omitted)).

The Court has reviewed the record in this case, the applicable law, and the Report of the Magistrate Judge for clear error. Having done so, the Court accepts the Report and Recommendation of the Magistrate Judge and incorporates it by reference. Accordingly, the Moving Defendants’ motion for summary judgment [Doc. 71] is DENIED, and Defendant Jane Doe is DISMISSED without prejudice pursuant to Rule 4(m).

IT IS SO ORDERED.

s/ Jacquelyn D. Austin  
United States District Judge

August 29, 2024  
Columbia, South Carolina

**NOTICE OF RIGHT TO APPEAL**

The parties are hereby notified of the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.